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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,300	04/13/2001	David Michael Kimble	50P3984.01	4749

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ROGITZ & ASSOCIATES  
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SUITE 3120  
SAN DIEGO, CA 92101

EXAMINER
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HUYNH, SON P

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/835,300

Applicant(s)

KIMBLE, DAVID MICHAEL

Examiner

Son P. Huynh

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 114-117 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 114-117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10/13/2006 have been fully considered but they are not persuasive.

Claims 1-113 have been canceled.

Applicant argues Fries "nowhere mentions that the video program is presented within a portion of a markup stream, much less in accordance with the size and location defined by a protocol, much less still a protocol file that is downloaded in response to selection of a link (claim 114)" (page 5, paragraph 3, page 6, paragraph 4).

In response, this argument is respectfully traversed. Claim 114, does not claims the limitation "video program is presented within a portion of a markup stream... a protocol file is downloaded in response to selection of a link". Instead, claim 114 recites receiving a selection of a link, and in response to the selection, sending a protocol file to the TV system...". Therefore, these limitations is on the Fries' disclosure of receiving a selection of a link on the display, and in response to the selection of the link, sending protocol file (metadata and PSI data) to the source that provides the selected content that cause the selected content to display on the screen as discussed in the Office Action dated 9/14/2006.

Art Unit: 2623

In response to Applicant argument "none of the relied portions of Zigmond et al. is it taught that a protocol file is sent to a TV system. Second,....is a "protocol profile", as discussed above the relied-upon portions simply do not teach anything about a location of a video layer within a markup language layer" (page 5, paragraph 2), the Examiner respectfully disagrees. The Examiner does not rely on Zigmond for the teaching of protocol is sent to a TV system. Fries already teaches this limitation. The Examiner relies on Zigmond for the teaching of protocol file includes a TV channel of the link and a size and location of a video layer within a markup language layer. In particular, Zigmond discloses HTML tags includes channel number, TV image width, TV image height, input source, z position, color, position, etc. of a television show layer within a HTML page content – see include, but is not limited to, col. 2, lines 4-22, col. 3, line 45-col. 4, line 37, col. 5, lines 43-57, col. 7, lines 45-62). Thus, Zigmond discloses the protocol file (interpreted as HTML protocol with tags) includes a TV channel of the link (interpreted as channel number) and a size (interpreted as TV image width, TV image height) and location (interpreted as position, z position) of a video layer (TV image) within a markup language layer (HTML).

In response to Applicant's argument that the metadata and PSI data has nothing to do with the video link feature (bridge paragraph between page 5 and page 6), the Examiner respectfully disagrees.

Fries discloses using metadata and PSI for the HTML pages and the links on the HTML pages (see include, but is not limited to, col. 6, line 35-col. 7, line 52, col. 9, line

Art Unit: 2623

42-col. 11, line 58, col. 20, line 25-col. 25, line 35). Fries also discloses the link on the page also tunes the set top box to a video channel (see include, but is not limited to, col. 18, lines 7-42). Thus, the metadata and PSI data are used for video link feature such as link to tunes to a video channel, or link to an image for display on the television, etc.

Applicant's argument that col. 2, lines 30-38 discuss injecting video information into TV programming, with the video information representing Web page, not television VOD as claimed... (page 6, paragraph 2), the Examiner does not relies on Fries for teaching of video on demand; instead, as discussed in the Office Action dated 9/14/2006, page 5, the Examiner relies on Schumacher for the teaching of providing a list of video on demand using a web browser.

In response to Applicant's argument that there is not apparent reason to send the protocol file to a TV system ..."protocol file" has used outside a TV system... (page 7, paragraph 2), the Examiner notes that claim 114 does not defined the location of a TV system. The claim merely claim using a TV system to present a user's Web's browser... and sending a protocol file to the TV system. Therefore, the claim "TV system" could be interpreted as any device related/involve in presentation a list of links to the user regardless of its location.

For the reasons given above, rejections on claims 114-117 are maintained, and are analyzed as discussed below.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 114-117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (US 6,317,885) in view of Schumacher et al. (US 6,757,907) and Zigmond et al. (US 7,076,792).

Regarding claim 114, Fries discloses a method for providing video program, comprising:

using a TV system to present to a user's web Browser a list of links, each link corresponding to a respectively piece of television program (using TV system, including a set top box (28) and television 30) to present to a user's web Browser 62 pages such as program guide page comprises a list of links, each link on the program guide page corresponding to a respectively piece of video program – see including, but are not limited to, figures 1, 3, 6, col. 6, lines 35-65; col. 18, lines 6-22);

receiving a selection of a link (e.g., receiving a selection of a link to a television program – see including, but is not limited to, col. 18, lines 6-22);

Fries further discloses the page images have meta-data and PSI data associated therewith in the Transport stream (col. 22, lines 61-67). The meta data comprises the source ID, size, shape and position, etc. of the images (col. 22, line 61-col. 30, line 65). In response to selection to link on the page (e.g. link to a video program), selection protocol file that contains meta-data and PSI data (size, source ID, channel, position, color, etc.) for displaying the video program corresponding to the selected link – see including, but are not limited to, col. 2, lines 30-38, 7, lines 7-52, col. 8, line 50-col. 11, line 37, col. 18, lines 6-23, col. 19, lines 30-63, col. 22, line 61-col. 23, line 15. Thus, protocol file (metadata and PSI data) is inherently sent to the TV system in response to the selection of a link on the page, the protocol file including a channel (ID source) and a size and location of the images corresponding to the video program associated with the selection so that the TV channel corresponding to video program associated to the link it tuned to and display a predetermined position on the screen (also see col. 7, lines 35-52);

Pries further discloses causing a channel tuner of the TV system to tune to the TV channel corresponding to the video program associated with the selection (causing channel tuner such as in band tuner 70 of the set top box to tune to the TV channel corresponding to the video program associated with the selected link – see including, but are not limited to, figure 3, col. 9, lines 40-50; col. 13, lines 57-64; col. 18, lines 7-22). Fries further discloses the Browser 62 displays program guide allows a user to link to a currently available program, add the program to a timer for timed viewing thereof, and/or prompt the user to purchase a pay per view event (col. 13, lines 58-64; col. 18,

Art Unit: 2623

lines 7-22). However, Fries does not specifically disclose providing video on demand wherein the list of links (in the program guide) is video on demand list, and the protocol file include a TV channel of the selected link and a size and location of a video layer within a markup language layer.

Schumacher, in an analogous art, discloses providing a list of video on demand programs using a web browser, and the video on demand system 100 provides the selected video on demand program to user in respond to user selection of a link on the video on demand list (see including, but are not limited to, figures 1-4, 6, col. 2, line 47-col. 4, line 5, col. 5, lines 35-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries to use the teaching as taught by Schumacher in order to allow user to navigate and select a video on demand program for immediately delivery by selection of a link on the screen thereby improve convenience for users. However, Fries in view of Schumacher does not specifically disclose the protocol file includes a TV channel of the link and a size and location of a video layer **within a markup language layer**.

Zigmond discloses the protocol file includes a TV channel of a link and a size and location of a video layer within a markup language layer (HTML tags includes channel number, TV image width, TV image height, input source, z position, color, position, etc. of a television show layer within a HTML page content – see including, but is not limited to, col. 2, lines 4-22, col. 3, line 45-col. 4, line 37; col. 5, lines 43-57, col. 7, lines 45-62).



Art Unit: 2623

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries in view of Schumacher to use the teaching as taught by Zigmond in order to transmit and display video image and HTML image to user as a single HTML page (col. 3, lines 3-67), thereby improve convenience to users.

Regarding claim 115, Fries in view of Schumacher and Zigmond teaches the TV system as discussed in claim 114. Fries further disclose the TV system includes a set top box (STB 28, figures 1,3), the STB presenting to the user's Web browser (62) the list of links (figures 3, 6-8, col. 6, lines 35-55, col. 13, lines 58-64).

Regarding claim 116, Fries in view of Schumacher and Zigmond teaches the TV system as discussed in claim 114. Zigmond further discloses the home entertainment system provides Internet layer (for display HTML image, web content 220) and a video layer (e.g., for displaying video image 220) to the user's web browser (web browser for displaying HTML documents), the browser being directed to render a portion of the Internet layer transparent to establish a transparent Internet portion, the transparent Internet portion having a size and screen location specified in the protocol file, the video layer being presented in the transparent Internet portion (see including, but is not limited to, figures 2, 6, col. 3, lines 1-11, line 42-col. 4, line 49, col. 5, lines 9-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries in view of Schumacher to use the teaching as further taught by

Art Unit: 2623

Zigmond in order to allow user to simultaneously view the video content and Internet content on the same page.

Regarding claim 117, the limitations of the system as claimed that correspond to the limitations of the method as claimed in claim 114 are analyzed as discussed in the rejection of claim 114.

Fries further discloses set top box (28) and television 30 (figure 1, 3, are interpreted as “a set top box” and “a display”;

Browser (62) presenting pages including plurality of links – figures 3, 6, col. 13, lines 58-64) is interpreted as “a Web browser presenting images on the display;

cable head end 22 (figures 1, 2) is interpreted as “a television head end”.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bruck et al. (US 7,143,428) discloses concurrent viewing of a video programming and of text communications concerning the video programming.

Gordon et al. (US 7,117,440) discloses method and apparatus for providing a menu structure for an interactive information distribution system.

Armstrong et al. (US 7,017,173) discloses system enabling user access to secondary content associated with a primary content stream.

LaRocca et al. (US 6,578,201) discloses multimedia stream incorporating interactive support for multiple types of subscriber terminals.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

December 23, 2006



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